

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MICHELLE LOPEZ and JOSEPH GIUFFRE, on
behalf of herself and all others similarly situated,

Plaintiffs,

-against-

NEW YORK COMMUNITY BANCORP, INC.,
NEW YORK COMMUNITY BANK, and NEW
YORK COMMERCIAL BANK,

Defendants.

**DECLARATION OF
ROBERT J. CUOCO III**

No. 20 CV 2741 (GRB) (ST)

I, Robert J. Cuoco III, hereby declare as follows:

1. New York Community Bank ("NYCB") has employed me since September 2010. I have been a Branch Operations Coordinator since May 2016, except for several months when I briefly left NYCB.
2. I am currently a Branch Operations Coordinator at NYCB's West Babylon, Suffolk County, New York branch, and I have served in this capacity since October 2018.
3. Before October 2018, I was briefly the Branch Operations Coordinator for the Babylon branch from April 2018 to October 2018. Before that, I was Branch Operations Coordinator at the Farmingdale, Amityville, and Babylon, Long Island branches.
4. As a Branch Operations Coordinator, I have regularly opened branches at the various locations where I worked.
5. At my current branch, the opening procedures take five minutes or less. Those procedures involve visually inspecting the area outside of the branch, performing a security sweep inside the branch by looking in all of the rooms to ensure the bank is secure, then clocking into the timekeeping system on a computer in the branch.

6. At the other Babylon location, opening procedures also took less than five minutes to complete.

7. At each of the branches where I work, there has been a set amount of time provided to employees for conducting opening procedures. A Branch Manager or Assistant Branch Manager automatically adds this time to my timesheet when I open. Since I have been a Branch Operations Coordinator, the time I spend performing opening procedures is always reflected in my timesheets.

8. The Branch Manager, Assistant Branch Manager, and/or other Branch Operations Coordinator each have the ability to access and adjust my timesheet in the electronic timekeeping system to account for the time I actually performed opening procedures – and they did so.

9. At my current West Babylon branch, seven minutes is allocated to perform opening procedures. In my experience, it has never taken more than seven minutes to perform opening procedures and clock in at this branch.

10. I have always been paid for the time I spent performing opening procedures as Branch Operations Coordinator.

11. As a Branch Operations Coordinator, no one at any of the branches where I worked ever interrupted my meal breaks such that I had to work during my break.

12. Generally, there are multiple management members on duty each shift to provide coverage, including meal breaks.

13. As Branch Operations Coordinator, I regularly perform closing procedures at my branch and have also done so at the other locations where I worked. All of the work performed during closing procedures is performed while punched into work, and I am paid for that time.

14. Once closing procedures are completed, employees clock out of the electronic timekeeping system. I have not performed any work after closing procedures are completed and clocking out, nor have I observed any other employee perform work after clocking out of the timekeeping system.

15. After closing procedures are completed, I either set the alarm and clock out or I clock out of the timekeeping system and then set the alarm, after which I exit the branch and lock the doors.

16. Whether I set the alarm first or clock out first, it takes only seconds from that moment to exit branch and lock the doors.

17. I always review my hours on a weekly basis and confirm that I have recorded all the time I spent performing work for that week.

18. No one has ever told me not to record working more than 40 hours per week.

19. No one has ever adjusted my timesheets to reduce the hours I worked.


20. I have never been reprimanded or disciplined for recording all the hours that I worked. In fact, I recall receiving instruction from management directing employees not to do work off the clock and advising us that the company will pay overtime if it is worked.

21. During my employment with NYCB, I have worked over 40 hours in a week and there has never been an instance in which NYCB did not pay me for that time. I am paid time and a half for time worked in excess of 40 hours.

22. NYCB has a policy that if an hourly employee works between 39 and 40 hours in a week, the employee is paid as if he or she worked the full 40 hours. Pursuant to that policy, I have received pay for 40 hours of work, even though I worked fewer than 40 hours that week.

I declare under penalty of perjury under the laws of the United States of America
that the foregoing declaration is true and correct.

Dated: February 22, 2021

A handwritten signature in black ink, appearing to read 'Robert J. Cuoco III', written over a horizontal line.

ROBERT J. CUOCO III